

Ryan W. Mitchem (TN #022196)
Admitted Pro Hac Vice
 Michael K. Alston (TN #013697)
Admitted Pro Hac Vice
 K. Chris Collins (TN #029109)
Admitted Pro Hac Vice
 HUSCH BLACKWELL LLP
 736 Georgia Avenue, Suite 300
 Chattanooga, Tennessee 37402
 Telephone: (423) 755-2663

Patricia Lee (NV #8287)
 Joseph R. Ganley (NV #5643)
 HUTCHISON & STEFFEN
 Peccole Professional Park
 10080 West Alta Drive, Suite 200
 Las Vegas, Nevada 89145
 Telephone: (702) 385-2500
 Facsimile: (702) 385-2086

Attorneys for Defendant LeadPile LLC

**IN THE UNITED STATES DISTRICT COURT
 DISTRICT OF NEVADA**

FLEMMING KRISTENSEN, individually,)
 and on behalf of a class of similarly)
 situated individuals,)
)
 Plaintiff,)
 v.)
)
 CREDIT PAYMENT SERVICES, INC.,)
 a Nevada corporation, f/k/a)
 MYCASHNOW.COM INC., ENOVA)
 INTERNATIONAL, INC., an Illinois)
 corporation, PIONEER FINANCIAL)
 SERVICES, INC., a Missouri corporation,)
 LEADPILE LLC, a Delaware limited)
 liability company, and CLICKMEDIA, LLC)
 d/b/a NET1PROMOTIONS LLC, a)
 Georgia limited liability company,)
)
 Defendants.)
)

Case No. 2:12-CV-00528-APG (PAL)

JURY DEMANDED

**LEADPILE LLC'S MOTION FOR
 LEAVE TO FILE DOCUMENTS
 UNDER SEAL PURSUANT TO
 CIVIL L.R. 10-5**

Judge: Hon. Andrew P. Gordon

Magistrate: Hon. Peggy A. Leen

1 COMES NOW Defendant LeadPile LLC (“LeadPile”), by and through counsel,
2 pursuant to Local Rule 10-5, and hereby submits this Motion for Leave to file certain
3 documents under seal in connection with Defendant’s Motion for Summary Judgment.
4 Further, Defendant states as follows:
5

6 1. A Stipulated Protective Order was entered in this case on January 11, 2013
7 [Dkt. 32], to provide guidelines regarding the exchange of confidential information between
8 the Plaintiff and all Defendants (the “Parties”). A First Amended Stipulated Protective Order
9 was entered in this case on January 30, 2014 [Dkt. 145] to add provisions for highly
10 confidential information exchanged between the Parties (Dkt. 32 and Dkt. 145 are hereinafter
11 collectively referred to as, the “Protective Order”).
12

13 2. LeadPile seeks to file the following documents designated “Confidential” or
14 “Attorneys Eyes Only” under seal pursuant to Civil Local Rule 10-5:
15

16 A. Exhibit 2 to the Declaration of K. Chris Collins in Support of LeadPile’s
17 Motion for Summary Judgment (“Collins Decl.”), excerpted portions of the
18 deposition transcript of Michael Ferry, taken January 10, 2014, in this
19 litigation. Because the transcript was designated Confidential, pursuant to
20 LeadPile’s obligations under the Protective Order, it is filing the excerpts
21 under seal.
22

23 B. Exhibit 3 to the Collins Decl., excerpted portions of the deposition transcript of
24 James Gee, individually, and as principal of AC Referral Systems, taken
25 January 23, 2014, in this litigation. Because the transcript was designated
26 Confidential, pursuant to LeadPile’s obligations under the Protective Order, it
27 is filing the excerpts under seal.
28

1 C. Exhibit 4 to the Collins Decl., a document dated June 28, 2011, entitled “Smart
2 Credit Solution” Publishing Agreement between Click Media and AC Referral,
3 CM000005 (Depo. Exhibit 9). Because the document was designated
4 Confidential, pursuant to LeadPile’s obligations under the Protective Order, it
5 is filing the excerpts under seal.
6

7 D. Exhibit 8 to the Collins Decl., excerpted portions of the deposition transcript of
8 Plaintiff Flemming Kristensen, taken January 21, 2014, in this litigation.
9 Because the transcript was designated as Confidential, pursuant to LeadPile’s
10 obligations under the Protective Order, it is filing the excerpts under seal.
11

12 E. Exhibit 10 to the Collins Decl., the expert witness Declaration of Lisa Snow,
13 dated July 23, 2014. Because this document was designated Attorneys’ eyes
14 Only, pursuant to LeadPile’s obligations under the Protective Order, it is filing
15 the excerpts under seal.
16

17 3. The foregoing documents in Paragraphs 2(a)-(e) have been designated
18 Confidential or Attorneys’ Eyes Only pursuant to the Protective Order because they contain
19 confidential and proprietary business information and private personal information. The
20 Protective Order contemplates that confidential, proprietary, or private information may be
21 disclosed during the course of discovery, and that the Parties shall follow the procedures set
22 forth in Civil Local Rule 10-5 for filing confidential documents under seal.
23

24 4. The party seeking to seal documents attached to a dispositive motion must
25 meet the compelling reasons standard. *See Golden Boy Promotions, Inc. v. Top Rank, Inc.*,
26 2011 WL 686362, at *1 (D. Nev. Feb. 17, 2011). Compelling reasons include “sales figures,
27 advertising numbers, and strategy information relating to [defendant’s] line of products.” *JL*
28 *Beverage Co. v. Beam, Inc.*, 2013 WL 1088363, at *3 (D. Nev. Mar. 14, 2013). If these

1 documents were made public, “[d]efendants’ respective business strategies and success in
2 sales would be made public to their competitors” which “could result in significant harm to
3 [d]efendants’ respective businesses.” *Id.* Compelling reasons also include “the protection of
4 confidential financial and personal information.” *Fed. Trade Comm’n v. Johnson*, 2013 WL
5 2460359, at *2 (D. Nev. June 6, 2013).
6

7 5. Here, compelling reasons exist for allowing LeadPile to file the above-
8 referenced exhibits under seal in order to avoid disclosure of confidential or proprietary
9 business information or private, personal information because the subject documents have all
10 been designated Confidential or Attorneys’ Eyes Only pursuant to the Protective Order
11 entered into by the Parties, because these documents were produced or generated during
12 discovery subject to the same Protective Order, and because they contain confidential
13 business information and/or personal information.
14

15 6. Pursuant to Civil Local Rule 10-5 and the District of Nevada’s ECF Filing
16 procedures, LeadPile will file the exhibits references in Paragraphs 2(a)-(e) above under seal
17 and will serve a copy on all Parties, in addition to delivering a paper copy to this Court.
18

19 WHEREFORE, LeadPile respectfully requests that this Court enter an Order granting
20 LeadPile’s Motion for Leave to File Documents Under Seal.
21
22
23
24
25
26
27
28

HUSCH BLACKWELL LLP

DATED: October 24, 2014

By: s/K. Chris Collins

Ryan W. Mitchem (TN #022196)
Michael K. Alston (TN #013697)
K. Chris Collins (TN #029109)
736 Georgia Avenue, Suite 300
Chattanooga, Tennessee 37402

Patricia Lee (NV #8287)
Joseph R. Ganley (NV #5643)
Peccole Professional Park
10080 West Alta Drive, Suite 200
Las Vegas, Nevada 89145

Attorneys for Defendant LeadPile LLC

CERTIFICATE OF SERVICE

Pursuant to F.R.C.P. 5(b), I certify that on this 24th of October, 2014, I caused the above and foregoing document entitled **LEADPILE'S MOTION FOR LEAVE TO FILE DOCUMENTS UNDER SEAL PURSUANT TO CIVIL L.R. 10-5** to be served as follows:

☐ by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada; and/or

☒ Pursuant to Fed. R. Civ. P. 5(b) and Section IV of District of Nevada Electronic Filing Procedures, to be served **via electronic service**; or

☐ to be sent via e-mail;

☐ to be sent via facsimile; and/or

☐ to be hand-delivered

to all attorneys of record according to the Court's CM/ECF system.

s/K. Chris Collins